

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

ALFREDO AVILES-TAVIRA,	:	MOTION TO VACATE
BOP No. 10600-279,	:	28 U.S.C. § 2255
Movant,	:	
	:	CIVIL ACTION NO.
v.	:	1:13-CV-3985-JEC-ECS
	:	
UNITED STATES OF AMERICA,	:	CRIMINAL ACTION NO.
Respondent.	:	1:12-CR-300-3-JEC-ECS

**FINAL REPORT AND RECOMMENDATION**

By Order dated January 27, 2014 (the "January 27 Order"), the undersigned noted that an evidentiary hearing is required to resolve the allegations made by federal inmate Alfredo Aviles-Tavira that his counsel failed to file a direct appeal on his behalf, but that, in light of the fact that such counsel was retained, Mr. Aviles-Tavira either needed to retain another lawyer or demonstrate that he now qualifies for court-appointed counsel. See [Doc. No. 95 at 1]. The undersigned directed the Clerk to mail Mr. Aviles-Tavira a Form CJA23 and ordered that he respond by February 24, 2014, either by naming his new retained counsel or completing the CJA23. See [id.] Finally, the undersigned cautioned Mr. Aviles-Tavira that failure to comply fully with the terms of the January 27 Order might result in the dismissal of this case. See [id. at 2]. As of March 13, 2014, Mr. Aviles-Tavira has not responded.

Accordingly, the undersigned **RECOMMENDS** that Mr. Aviles-Tavira's § 2255 motion be **DISMISSED WITHOUT PREJUDICE**. See LR 41.3A(2), NDGa.

If Mr. Aviles-Tavira responds to the January 27 Order before the objection period for this Final Report and Recommendation expires or if he files objections, the Clerk is **DIRECTED** to resubmit this case to the undersigned. Otherwise, the Clerk is **DIRECTED** to submit this case to the district judge to whom this case is assigned at the conclusion of the objection period.

The Clerk is **DIRECTED** to terminate the referral of this case to the undersigned.

**SO RECOMMENDED AND DIRECTED**, this 18th day of March, 2014.

**S/ E. Clayton Scofield III**  
E. CLAYTON SCOFIELD III  
UNITED STATES MAGISTRATE JUDGE